IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 17932 of 2005(I)

PETITIONER:

M.T.THOMAS, CHIRAVALEL HOUSE,
MEMMURY P.O., KOTTAYAAM DISTRICT,
(RETIRED SENIOR SUPEINTENDENT,
ELECTRICAL SECTION, MARANGATTUPILLY, PALA)

BY ADV. SRI.MATHEW SKARIA
SRI.SUJESH J.MATHEW

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM-695004.

2. THE CHIEF ENGINEER(HRM),
KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, PATTOM,
THIRUVANANTHAPURAM-695 004.

BY ADV. SRI.K.S.ANIL, SC, KSEB
SRI. ASOK M.CHERIYAN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON 31/07/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE ORDER NO.EB8/419/2002 DATED 16-8-2002 OF THE SECOND RESPONDENT.

EXT. P2: COPY OF THE ORDER NO.EB8/349/2002 DATED 11-9-2002.

EXT. P3: COPY OF THE ORDER NO.EB8/345/2002 DATED 24-9-2002 OF THE SECOND RESPONDENT.

EXT. P4: COPY OF THE REPRESENTATION DATED 24-6-2002 MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT ALONG WITH THE COVERING LETTER AND ENDORSEMENT OF THE 2ND RESPONDENT.

EXT. P5: COPY OF THE DEATH CERTIFICATE OF SRI.P.M.JOSEPH DATE3D 19-4-2002 ISSUED BY THE SECRETARY OF MARANGATTUPILLY GRAMA PANCHAYATH.

EXT. P6: COPY OF THE APPEAL PETITION DATED 8-1-2003 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT. P7: COPY OF THE SAID REQUEST DATED 14-8-2004 MADE BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT. P8: COPY OF THE JUDGMENT DATED 19-10-2004 IN W.P.(C) NO.30678/2004(B).

EXT. P9: COPY OF THE ORDER, B.O.(MF) NO.1453/2005 (LA(S)IV/18009/2004 DATED 10-5-2005 OF THE 1ST RESPONDENT.

EXT. P10: COPY OF PAY REVISION ORDER B.O.NO.460/2001, PSI/OPR/2000 DATED 23-2-2001 OF THE K.S.E.B. NO.EB8/419/2002 DATED 16-8-2002.

/TRUE COPY/

P.A. TO JUDGE

JP

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.17932 of 2005

Dated this the 31st day of July, 2007.

J U D G M E N T

The petitioner, retired from the service of the Kerala State Electricity Board as Senior Superintendent. With the implementation of pay revision with effect from 1-7-1998, his junior Sri. P.M. Joseph started drawing higher pay higher than the petitioner. The petitioner moved for stepping up his pay. The said motion was rejected by the Chief Engineer by Ext.P4 communication dated 9-7-2002. The petitioner appealed to the K.S.E.B. The Board considered the matter and rejected his claim by Ext.P9 dated 10-9-2004. The respondents do not dispute the claim of the petitioner, but he was not granted the benefit of stepping up the pay, on the ground that his junior who was drawing higher pay died when the petitioner's claim for stepping up was taken up. So, the said anomaly disappeared. The petitioner is not entitled to get the benefit of stepping up his pay. This writ petition is filed challenging Ext.P9 and also seeking consequential reliefs.

2. The first respondent has filed a counter affidavit, in which the claim of the petitioner is not disputed on merits. But, since the junior died, the cause of action of the petitioner is lost and therefore,

he cannot claim the benefit of stepping up. This is the stand taken.

Heard the learned counsel on both sides. The petitioner is entitled to have his pay stepped up with effect from the date his junior started drawing higher pay. It is not in dispute that the said grievance of the petitioner subsisted for some time. By the time the petitioner took up the matter for stepping up his pay, his junior died. Even if there is any delay in moving for stepping up the pay and granting the same, it will take effect with effect from the date his junior started drawing higher pay. Therefore, I think the grievance raised by the petitioner is genuine. The petitioner has a right approved with effect from the date of drawal of higher pay by the junior to have his salary stepped up. Accordingly, Ext.P9 is quashed. The respondents are directed to grant the benefit of stepping up of his pay, in accordance with law, ignoring the death of his junior. This, the competent authority of the K.S.E.B shall do within two months from the date of production of a copy of this judgment.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS